

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

SUELLEN BEAULIEU, et al.,)
)
Plaintiffs,) **Case No. 5:06-cv-400-BR**
)
v.) **This Document Relates to All Cases.**
)
EQ INDUSTRIAL SERVICES, INC., et al.,)
)
Defendants.)
)

**RULE 26(f) REPORT OF EQ INDUSTRIAL SERVICES, INC.,
EQ HOLDING COMPANY, ALLWORTH INC., PHILIP SERVICES CORPORATION
AND ST MOBILE AEROSPACE ENGINEERING, INC.**

In accordance with this Court's order dated July 23, 2007,¹ the defendants in these consolidated matters, EQ Industrial Services, Inc. ("EQIS"), EQ Holding Company, Inc. ("EQH"), Allworth Inc. ("Allworth"), Phillip Services Corporation ("PSC"), and ST Mobile Aerospace Engineering, Inc. ("MAE") hereby collectively submit their Rule 26(f) Report. This Report is intended as a supplement to the prior Rule 26(f) Report submitted by EQIS and EQH on July 17, 2007 which report included a proposed Scheduling Order. Allworth, PSC and MAE, hereby join in that prior report and proposed Scheduling Order, as supplemented herein.

1. Rule 26(f) Conference. Various plaintiffs' counsel and counsel for EQIS and EQH initially convened a Rule 26(f) discovery conference on March 2, 2007, prior to the filing of the Plaintiffs' Master Amended Class Action Complaint on July 2, 2007 (which added Allworth, PSC and MAE as defendants).

¹ This Court ordered that the parties should conduct another Rule 26(f) Conference and submit their Rule 26(f) Discovery Reports by August 10, 2007. (See Docket Entry No. 74.)

On August 8, 2007 the parties convened another Rule 26 discovery conference at the office of Womble Carlyle Sandridge & Rice, PLLC in Research Triangle Park, North Carolina.

Attending the meeting were:

- Jesse Shapiro of the Law Office of Jesse Shapiro for the Plaintiffs in the *Shapiro* matter;
- J. Michael Malone of Brady, Norgren, Martin and Malone PLLC for Plaintiffs in the *Borden* matter;
- Donnie Dunn of the Law Office of Donnie J. Dunn, Henry T. Dart of Henry Dart, Attorneys at Law (via telephone) and Shiloh Daum of Zaytoun and Miller, for the Plaintiffs in the *Carley* matter;
- Frederick W. Rom and Jacqueline Terry of Womble Carlyle Sandridge & Rice, PLLC for EQIS and EQH;
- Richard T. Boyette of Cranfill, Sumner and Hartzog LLP, and Michael J. Holland of Condon and Forsyth LLP for MAE;² and
- Steven B. Epstein of Hunton and Williams LLP for Allworth and PSC.

2. Status of Pleadings. EQIS and EQH have responded to the various Complaints as outlined in their July 17, 2007 Rule 26(f) Report. This Court has extended the time for MAE, Allworth and PSC, to respond to the Master Amended Class Action Complaint until August 27, 2007.³

3. Submission of Rule 26(a)(1) Disclosures. The parties have now agreed that they will exchange their Rule 26(a)(1) Disclosures within ten (10) days of the entry of the Discovery Scheduling Order (as suggested in the previously submitted proposed Scheduling Order).

² As set forth herein, MAE is planning to file a Motion to Dismiss based on lack of *in personam* jurisdiction. Its participation in this Court mandated conference, joining in this report, and exchanging Rule 26(a)(1) disclosures as set forth in Paragraph 3, does not constitute a waiver of its position that this Court does not have jurisdiction over MAE.

³ See Docket Entries 73 and 75

4. Discovery Plan. As a supplement to the proposed Scheduling Order submitted in the July 17, 2007 Rule 26(f) Report of EQIS and EQH, the defendants propose forwarding a questionnaire to plaintiffs' counsel which will seek basic information about the claims of: (1) named plaintiffs and (2) the other known putative class members, who are currently represented by plaintiffs' counsel, but not named as plaintiffs.

In light of the expected Motion to Dismiss by MAE based upon *in personam* jurisdiction, and the desire of the parties to move forward with discovery in an orderly, non-repetitive manner, the parties have agreed to commence discovery as follows:

A. Discovery on MAE Motion to Dismiss Based on Lack of *In Personam* Jurisdiction.

The parties agreed that discovery (including "paper discovery" and depositions) should commence on issues related to MAE's jurisdictional motion as soon as this Court enters the Discovery Scheduling Order.

B. Discovery Among Other Parties.

To avoid repetitious discovery, the parties have agreed that once discovery commences, other than the discovery involving MAE as described above in 4(A), the parties will conduct only "paper discovery" until the jurisdictional motion by MAE is resolved by the Court.

The defendants believe that the discovery in this matter should be bifurcated and therefore the referenced discovery should be limited initially to class certification issues. Once the jurisdictional motion is resolved, the parties will engage in depositions on class certification issues. Merits discovery would commence following court determination of the class certification motion.

5. Amendments to Pleadings. The defendants believe that plaintiffs' Master Amended Class Action Complaint fails to plead special damages with the requisite specificity. The parties are currently conferring to see if this issue can be resolved by consent.

Plaintiffs' counsel confirmed that Suellen Beaulieu, the only named plaintiff in the *Beaulieu* matter was intentionally dropped as a named plaintiff in the Master Amended Class Action Complaint.⁴

Plaintiffs' counsel also confirmed that as drafted in the Master Amended Class Action Complaint, the named plaintiffs are neither seeking class certification, nor any damages, for any personal injuries or for any devaluation of their real property.

This 10th day of August, 2007.

Respectfully submitted,

WOMBLE CARLYLE SANDRIDGE & RICE, PLLC

/s/ Frederick W. Rom

Frederick W. Rom (N.C.S.B. 26675)
Robert S. Pierce (N.C.S.B. 14015)
Jacqueline Terry (N.C.S.B. 25884)
Michael T. Wood (N.C.S.B. 32427)
P.O. Box 13069
Research Triangle Park, NC 27709

Telephone: (919) 484-2300
Fax: (919) 484-2073
Email: from@wCSR.com

*Attorneys for Defendant EQ Industrial Services, Inc.
and EQ Holding Company*

⁴

It therefore appears that there are no plaintiffs remaining in that individual action.

HUNTON & WILLIAMS LLP

/s/ Steven B. Epstein

Steven B. Epstein
One Bank of American Plaza
421 Fayetteville Street, Suite 1400
Raleigh, NC 27601
Telephone: (919) 899-3000
Fax: (919) 833-6352
Email: sepstein@hunton.com

*Attorneys for Philip Services Corporation and
Allworth, Inc.*

CRANFILL, SUMNER & HARTZOG, LLP

/s/ Richard T. Boyette

Richard T. Boyette
225 Hillsborough Street, Suite 300
Raleigh, North Carolina 27603
Telephone: (919) 863-8729
Fax: (919) 863-3519
Email: rtb@cshlaw.com

Attorneys for ST Mobile Aerospace Engineering, Inc.

CONDON & FORSYTH

/s/ Michael J. Holland

Michael J. Holland
Stephen R. Stegich
Times Square Tower
7 Times Square
New York, New York 10036
Telephone: (212) 490-9100
Fax: (212) 370-4453

Attorneys for ST Mobile Aerospace Engineering, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he filed the RULE 26(f) REPORT OF EQ INDUSTRIAL SERVICES, INC., EQ HOLDING COMPANY, ALLWORTH INC., PHILIP SERVICES CORPORATION AND ST MOBILE AEROSPACE ENGINEERING, INC. on the Court's electronic docketing system on this the 10th day of August, 2007. Prior to filing electronically, a search was made of the United States District Court for the Eastern District of North Carolina, Western Division Mailing Information for Case No. 5:06-CV-400-BR which revealed that the following counsel of record are registered to receive filings electronically from the Court; therefore, the undersigned upon information and belief certifies that the following will receive a copy of these papers through the Court's electronic notice system and/or by first class mail:

Robert E. Zaytoun, Liaison Counsel
Zaytoun & Miller
414 West Jones Street
Raleigh, NC 27603

J. Michael Malone
Brady, Nordgren, Morton & Malone, PLLC
2301 Sugar Bush Road
Suite 450
Raleigh, NC 27612

Jesse Shapiro
The Law Office of Jesse Shapiro
126 Salem Street, Suite 202
Apex, NC 27502

E. Clark Dummit
The Dummit Law Firm
213 West 6th Street
Winston-Salem, NC 27101

Greg Jones
3015 Market Street
Wilmington, NC 28403

Stephen B. Epstein
Edward A. Wyatt
One Bank of America Plaza
421 Fayetteville Street, Suite 1400
Raleigh, NC 27601

Richard T. Boyette
Cranfill, Sumner & Hartzog, LLP
225 Hillsborough Street, Suite 300
Raleigh, NC 27603

/s/ Michael T. Wood
Michael T. Wood